IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 7883 of 1997

Between:

Boddu Satyanarayana S/o Narayana,Hindu
43 years, R/o Paonnapalli, Narsapur,
West Godavari District.

..... PETITIONER

AND

1 The Sub-Collector,Narsapur,
West Godavari District.
2 The Assistant Director of Fisharies,
Eluru, West Godavari District.
3 The Inspector of Fisheries,
Narsapur, West Godavari District.
4 T.Anjaneyulu S/o Veeraswamy
Ponnapalli, Narsapur, West Godavari district.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ of Mandamus or any other appropriate writ order or direction declaring the action of the respondents 1 to 3 in not removing the "Valakattu"eracted by the 4th respondent at N.T.R.'s foundation stone in Vasista River,Narsapur contrary to the fishing rules as illegal,arbirtry and violative of Art.14 and 19 of the Constitution of Inida and to issue consequential direction to the respondents to remove the above said valakattu.

Counsel for the Petitioner:MR.K.CHIDAMBARAM

Counsel for the Respondent No.1 to 3: GP FOR FISHERIES

Counsel for the Respondent No.4: MR.M. ADINARAYANA RAJU.

The Court made the following :

ORDER;

This writ petition is filed by the petitioner praying for a writ of mandamus or any other appropriate writ order or direction declaring the action of the respondents 1 to 3 in not removing the "Valakattu' erected by the 4th respondent at N.T.R.'s foundation stone in Vasista River, Narsapur contrary to the fishing rules is illegal, arbitrary and violative or Article 14 and 19 of the Constitution of India and also for issuing consequential direction.

2. It is stated that when there was interference by the certain persons, a suit O.S.No. 20 of 1987 was filed against 29 persons on the file of the Principal District Munsif, Narsapur for permanent injunction and the same was decreed on 08-11-1995. It is also stated that another suit O.S.No.181 of 1995 on the file of the Principal District Munsif, Narsapur was filed and an application for a temporary injunction had also been filed.

3. In the counter-affidavit filed, it is stated that the petitioner herein is the 2nd plaintiff, along with 28 others, filed a suit O.S.No.181 of 1995 on the file of the Principal Junior Civil Judge, Narsapur as against four defendants for declaration of the plaintiffs title to catch fish in Kondalamma temple Valakattu and for issuance of mandatory injunction directing the defendants to remove newly raised valakattu at Madhavaipalem Ferry point and for such other suitable reliefs. It is also stated that inasmuch as, a suit had been filed for the similar relief, the writ petition cannot be

maintained and the same may have to be dismissed on this ground alone. It is also stated that the defendants in O.S.No.181 of 1995 preferred an appeal A.S.No.15 of 2002 on the file of the Senior Civil Judge, Narsapur and obtained an interim order of stay of execution of the decree and the said appeal is pending. It is also stated that as against O.S.No.20 of 1987 on the file of the Principal District Munsif, Narsapur, an appeal A.S.No.1 of 1996 on the file of the Senior Civil Judge, Narsapur had been preferred and the same was allowed on 24-1-2000 by setting aside the judgment and decree made by the trial Court holding that the plaintiffs have no right in the stake nets of Navarasapuram i.e., near the land of V. Kumaraswamy and the said declaration became final. Several other details also had been furnished inclusive of W.P.No.24193 of 1996, O.S.No.41 of 1997 and also A.S.No.1 of 2004.

4. Heard Sri Y. V. Srinivas representing Sri K. Chidambaram, learned counsel for the petitioner and also the learned Government Pleader for Fisheries and Sri M. Adinarayana Raju, learned counsel for the respondent No.4.

5. As can be seen from the respective pleadings of the parties, this is a dispute that may have adjudicated by a competent civil Court since several questions of facts are involved in the matter, and in fact, the parties are invoked the jurisdiction of the Civil Courts as reflected from the civil proceedings which had been referred to supra.

6. In the light of the same, this writ petition is a misconceived one and the writ petitioner is given liberty to agitate his rights, if any, before an appropriate civil Court.

7. With the above direction, the Writ Petition is hereby dismissed. No order as to costs.

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18-02-2005

To

1 The Sub-Collector,Narsapur,
West Godavari District.
2 The Assistant Director of Fisharies,

Eluru, West Godavari District.

3 The Inspector of Fisheries,
Narsapur, West Godavari District.

4. Two CCs to the Government Pleader for Fisheries, Government of Andhra Pradesh, Hyderabad. (OUT)

5. Two C.D. copies.

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